

## **7 FAM 1100 APPENDIX A DEOXYRIBONUCLEIC ACID (DNA) TESTING AND CITIZENSHIP**

*(CT:CON-449; 03-25-2013)  
(Office of Origin: CA/OCS/L)*

### **7 FAM 1110 APPENDIX A INTRODUCTION AND AUTHORITIES**

*(CT:CON-335; 06-22-2010)*

- a. This Appendix provides guidance to passport agencies and centers and U.S. embassies and consulates abroad about citizenship adjudication and the use of DNA testing to establish the requisite relationship between the U.S. citizen putative or alleged parent and a child claiming derivative U.S. citizenship.
- b. 7 FAM 1130 provides guidance regarding adjudication of a citizenship claim for a child born abroad attempting to establish a derivative claim to U.S. citizenship through a U.S. citizen parent. 7 FAM 1160 (under development) provides guidance about citizenship and Assisted Reproductive Technology (ART).
- c. The statutory requirement that an applicant may use DNA testing to prove the relationship between the U.S. citizen parent and the child is in Section 1993 RS, Section 201(g) of the Nationality Act of 1940 (NA), and Section 301(g) INA ("a person born ... of parents"). Determining whether a claimant meets this statute to establish a derivative claim to U.S. citizenship can usually be accomplished by review of documentary evidence provided by the claimant.
- d. Genetic testing is most commonly used to verify a parent/child relationship in conjunction with a citizenship case or an immigrant visa application, when other forms of credible evidence are insufficient (9 FAM 42.44, Notes). However, due to the expense, complexity, and logistical delays inherent in parentage testing, genetic testing should be used only if other credible proof does not establish to the satisfaction of the adjudicating officer that the relationship exists.
- e. When genetic testing appears warranted, the consular officer or passport specialist (with concurrence of the supervisor) may advise the applicant that genetic testing may establish the validity of the relationship. Such testing is entirely voluntary, and all costs of testing and related expenses must be borne by the applicant and paid to the laboratory in advance. The applicant must be cautioned that submitting to testing does not at all guarantee the subsequent issuance of a U.S. passport, and that the results of DNA testing may rather preclude issuance. Standard language for communicating with applicants about

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DNA testing is available in the Passport Services' Information Request Letter (IRL). General guidance about CA requirements for DNA parentage testing is available on the CA Internet page.

- f. Who should be tested: If at all possible, the child, mother, and father should all be tested. In the event of the death of one or both parents, the AABB-accredited testing facility will provide specific guidance regarding the utility of testing of other relatives.

NOTE: Why test the mother? DNA relationship/parentage testing favors testing the child and both the mother and father to ensure that the child is actually the child of the two alleged parents—that is, to rule out cousins, unrelated children, etc. The Bureau of Consular Affairs (CA) follows this practice even if the citizenship claim is through the U.S. citizen father. Including the biological mother in any DNA paternity test strengthens test results. Whenever possible, the mother should submit DNA samples as a participant. Testing the mother's DNA increases the likelihood of a conclusive result for any DNA test, including DNA tests for paternity, siblings, grandparents, etc.

- g. 7 FAM 1100 Appendix A authorities are:
- (1) INA Section 301 (8 U.S.C. 1101);
  - (2) INA Section 309 (8 U.S.C. 1109);
  - (3) 22 CFR 50.2: Determination of U.S. nationality of persons abroad;
  - (4) 22 CFR 51.40: Burden of proof is upon the applicant to establish a claim to U.S. citizenship;
  - (5) 22 CFR 51.41: Every application shall be accompanied by evidence of the U.S. nationality of the applicant;
  - (6) 22 CFR 51.54: Requirement of additional evidence of U.S. citizenship;
  - (7) 22 CFR 51.28: Any adjudicating official may require additional evidence of identity;
  - (8) Section 201(g) of the Nationality Act of 1940 (NA); and
  - (9) Section 1993 of the Revised Statutes (RS).

## **7 FAM 1120 APPENDIX A BURDEN OF PROOF FOR ESTABLISHING U.S. CITIZENSHIP AND DNA TESTING**

*(CT:CON-335; 06-22-2010)*

- a. Applicants for U.S. passports and Consular Reports of the Birth Abroad of a Citizen of the United States have the burden of proving by a preponderance of

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the evidence, also known as balance of probabilities, their identity (22 CFR 51.23) and that they are citizens of the United States (22 CFR 51.40). The standard is met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is greater than a 50 percent chance that the proposition is true. Nothing contained in 22 CFR 51.42 through 51.46 shall prohibit the consular officer or the passport specialist from requiring an applicant to submit additional evidence deemed necessary to meet this standard to establish U.S. citizenship or nationality (see 22 CFR 51.45).

- b. 8 U.S.C. 1409 (a)(1) (INA 309(a)(1)) provides that for a person born abroad out of wedlock to a U.S. citizen father, a blood relationship between the person and the father is established by clear and convincing evidence. This is an intermediate level of burden of persuasion sometimes employed in U.S. civil procedure. In order to prove something by "clear and convincing evidence" the party with the burden of proof must convince the trier of fact that it is substantially more likely than not that the thing is in fact true. This is a lesser requirement than "proof beyond a reasonable doubt" which requires that the trier of fact be close to certain of the truth of the matter asserted, but a stricter requirement than proof by "preponderance of the evidence," which merely requires that the matter asserted seems more likely true than not.
- c. DNA paternity/maternity testing reliability has advanced to the industry-accepted standard of 99.5 percent. When the mother and father of the child are tested, consular officers may only accept test results reporting a 99.5 percent or greater degree of certainty with respect to paternity/maternity in citizenship cases. However, a test that supports paternity/maternity to a degree less than 99.5 percent generally can be followed by retests to determine if the 99.5 percent accuracy can be achieved.

NOTE: It is also possible to reach 99.5% certainty or better on sibling tests, although it is not possible to do it consistently enough for the testing to be conclusive.

- d. In cases where an alleged mother or father are deceased, missing, or unavailable to participate in genetic testing, both of the paternal or maternal grandparents can be tested in order to determine the likelihood of grandparentage. In a case where both grandparents are not available to contribute samples, a Family Reconstruction Test must take place. Reconstruction can include any known biological family members of the possible father or possible mother, including their siblings. This type of DNA testing is referred to as avuncular DNA analysis. Unlike a DNA paternity test which will always provide a conclusive result, avuncular DNA tests are different. It is not possible to achieve a 99.5 percent result in avuncular DNA analysis. However, CA will accept as probative DNA test results involving siblings, grandparents, aunts and uncles, etc., for U.S. citizenship, if the testing facility confirms that such test is able to produce meaningful results.

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NOTE: This differs from the 9 FAM 42.44 N4, paragraph c, policy guidance due to the differing burden of proof and evidentiary standard in citizenship cases.

## **7 FAM 1130 APPENDIX A SELECTION OF AN AABB LAB**

*(CT:CON-407; 06-29-2012)*

- a. CA requires that any DNA for citizenship purposes must be processed by a lab that is accredited by the American Association of Blood Banks (AABB).
- b. Names of AABB accredited labs are available on the AABB Web page.
- c. The list of laboratories on that site is based on the physical location of the lab's headquarters but that the operations of most labs are not restricted to that location.
- d. Many of the laboratories operate nationally, therefore the applicant/parent should be able to choose from the full list of AABB laboratories which conduct DNA testing.
- e. Claimant must select and contact the AABB-accredited lab: The claimant must select an AABB-accredited laboratory, contact the lab directly, and make the necessary arrangements for conducting the genetic test, including payment for all tested parties.
- f. Third-party vendors prohibition:
  - (1) Under no circumstances can claimants use third-party vendors to select their lab, arrange appointments, or transport the specimens outside of the lab chain-of-custody controls;

For example: An applicant must independently choose his or her own AABB lab, make the appointment, and go to the collection site directly. The collection site must then send the specimen to the main AABB lab testing site directly, through the lab's internal controlled system.

- (2) Third-party vendors include, but may not be limited to, private companies or clearinghouses that serve as intermediaries to make appointments on behalf of claimants; and
  - (3) The authority for collecting DNA specimens in the United States resides exclusively with the AABB labs and their directly affiliated collection sites.
- g. Test kits may not be sent to claimants: Under no circumstances should claimants, including those in the United States, directly receive test kits for themselves or derivative claimants. The DNA samples for the claimant must be collected at the designated AABB testing site, lab, or clinic (generally in the

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United States). The AABB laboratory selected by the claimant will send a test kit, including a pre-paid, pre-addressed return envelope and explicit sampling instructions, directly to the consular section for testing of a claimant.

- h. Reporting anomalies: Posts must report to CA/OCS/L any anomalies, such as claimants traveling unusual distances to get to a collection site when other collection sites are available closer to them. CA/OCS/L will coordinate with FPP in the event there are indications of possible fraud.

## **7 FAM 1140 APPENDIX A DNA TESTING COLLECTION METHOD**

*(CT:CON-335; 06-22-2010)*

- a. DNA testing is now used in over 99 percent of all parentage tests performed by AABB accredited labs.
- b. The types of tests used by the DNA scientific community continues to evolve, but currently, the Polymerase Chain Reaction-Short Tandem Repeat (PCR-STR) and the Restriction Fragment Length Polymorphism (RFLP) methods are the two tests that the Department believes to be the most advanced, offering the best results.
- c. Preferred specimen collection technique:
  - (1) The preferred specimen collection technique for DNA testing is by buccal (cheek or mouth cavity) swab. When buccal swabs are taken, cells are collected from the inside cheek using a long cotton swab. Cheek swabs are preferred over blood samples because they are easier to collect, noninvasive, painless, and easier to ship. The accuracy of a DNA test conducted with a cheek swab is equivalent to a test conducted using a blood test, and does not present the same biohazards as blood samples. Inform panel physicians and lab technicians that this is the preferred collection method for citizenship cases. The physicians or technicians collecting the specimens should follow the same CDC standards as they would if collecting swabs at their clinic or lab; and
  - (2) Under no circumstances should consular officers or domestic passport agencies or centers attempt to collect samples themselves.

## **7 FAM 1150 APPENDIX A STANDARDS FOR COLLECTION OF DNA SAMPLES ABROAD**

*(CT:CON-449; 03-25-2013)*

- a. Though advanced, DNA results are only accurate if strict standards are followed for every sample collected. The AABB establishes standards for relationship

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testing, and the Department of State follows these standards for use in the collection of DNA samples abroad to verify relationships for citizenship purposes.

- b. There are four essential elements that must be understood and maintained to protect the integrity of the DNA collection and relationship testing procedures:
  - (1) As DNA testing is voluntary, the individual being tested must consent to the testing;
  - (2) The identity of the individual being tested must be verified and confirmed by a cleared American;
  - (3) The integrity of the sample must be maintained through a strict chain of custody; and
  - (4) The actual collection of the DNA sample must be witnessed by a cleared U.S. citizen Department of State employee.
- c. Effective immediately, all DNA collections abroad must take place at the embassy or consulate and not at the panel physician's office or other lab facility. Department of State medical officers may not collect biological samples for genetic testing purposes. Furthermore, under no circumstances should consular officers attempt to collect samples themselves. All sample collection must be done by medical personnel employed by the panel physician.
- d. Each panel physician's office must recommend several lab technicians who will then be cleared and approved by post. The completion of a CLASS name check and review of previous visa application(s) and RSO records is the minimum required clearance to approve a lab technician for operation inside the consulate. Post should take factors including multiple visa refusals into consideration prior to clearing the technician for conducting DNA testing.
- e. Post must choose a site in the consular section for collection of the buccal swab. The collection must be witnessed by the consular officer or another cleared American, and in certain circumstances, section management as well. Posts may wish to explore privacy options, including (but not limited to) privacy booths, interview windows with a curtain separator for privacy, or a regular interview window. Regardless of the final collection location, both the applicant and medical technician must be in the immediate presence of the cleared U.S. citizen employee witness at all times.
- f. Any U.S. citizen employee of the consular section, possessing a valid "Secret" or higher national security clearance may serve as the cleared U.S. citizen witness for DNA tests. At post's discretion, locally employed staff (LES) may accompany the cleared U.S. citizen to witness the collection. However, a cleared U.S. citizen must be the official witness of DNA testing procedures.
- g. Post must observe the guidelines outlined herein in order to maintain clear chain of custody, including a log to monitor accountability through all steps.

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h. Sample DNA accountability log:

Date Kit Recei ved	Case Num ber	Sur - na me	Giv en Na me	Kit Num ber and Lab Nam e	ACO Signat ure	Date of DNA Kit Sampl ing	Name and Initial s of Cleare d Ameri can Witne ss Who Recei ved DNA Kit	ACO Sign a- ture	Date Kit Deliver ed to Shippi ng- Compa ny

- i. DNA procedures should be posted on the post's Web sites as general information to the public, and updated annually. Any questions about what should be included in this information should be directed to CA/OCS/L ([Ask-OCS-L@state.gov](mailto:Ask-OCS-L@state.gov)).
- j. Any additional post-specific internal controls and procedures involving DNA testing, not included in this Appendix must be approved in advance by CA/OCS/L and CA/FPP.

## **7 FAM 1160 APPENDIX A GENETIC TESTING PROCEDURES**

*(CT:CON-335; 06-22-2010)*

- a. Selection of a laboratory: The applicant and others to be tested must select the AABB-accredited laboratory, contact the laboratory directly, and make the necessary arrangements (including payment) for conducting the genetic test. The use of an AABB-accredited laboratory is required for applications before domestic passport agencies and centers and U.S. embassies and consulates abroad.
- b. Domestic Passport Agency/Center procedures: Domestic passport agencies/centers do not observe the collection of samples and procedures established by the AABB-accredited testing facility should be followed for collection of testing samples domestically. This is the responsibility of the

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laboratory conducting the testing in coordination with the facility collecting the sample. If a sample is to be collected from a family member abroad, the procedures outlined in this section should be followed.

NOTE: Domestic passport agencies/centers may only accept DNA tests conducted by an AABB-accredited testing facility performed on samples taken by local technicians approved/authorized by the AABB.

- c. DNA testing procedures at U.S. embassies and consulates:
- (1) The applicant/putative parent selects AABB-accredited lab;
  - (2) The selected AABB lab sends the applicant DNA testing kit(s) directly to the consular section;
  - (3) The accountable consular officer (ACO) checks in all test kits on the DNA accountability log upon receipt in the consular section. This consists of ensuring that the kit has not been opened or damaged and if the kit includes a seal, confirming the kit seal is intact, adding the kit to the accountability log stored in the ACO safe, and storing it in the ACO safe or a bar-lock cabinet. The safe where the DNA kits are stored must be accessible only to the ACO or designated backup;
  - (4) Once the ACO records receipt of the collection kit, the consular section must contact the applicant to schedule an appointment date for DNA collection and tell the applicant that he or she must bring his or her passport and a photograph;
  - (5) On the DNA collection appointment date, a lab technician from the panel physician's office must come to the consular section to collect the DNA sample(s);
  - (6) Immediately prior to the testing, the ACO checks the test kit out of the safe and gives it to the cleared U.S. citizen employee witness who will witness the collection, recording the cleared U.S. citizen employee witness's name in the accountability log. The witness verifies that the kit is unopened, and if applicable, the seal is intact. The cleared U.S. citizen employee witness is responsible for the custody of the testing materials until he or she applies the security seal to the mailing package;
  - (7) The cleared U.S. citizen employee witness should review the instructions sent by the AABB lab prior to the DNA collection, so as to be familiar enough with the sample collection technique to recognize if it is not being executed properly by the lab technician;
  - (8) At the time of testing, the cleared U.S. citizen employee witness must have the medical technician and applicant/beneficiary come to the interview window or designated location within the consular section, one applicant at a time;
  - (9) The cleared U.S. citizen employee witness must personally verify the



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identity of the donor through:

- (a) Presentation of passport; and
  - (b) Verifying that the applicant signs on the back of his or her photograph for attachment to the chain-of-custody document(s);
- (10) Once the identity of the applicant has been confirmed, the cleared U.S. citizen employee witness must do the following:
- (a) Collect the signed applicant photograph and supporting documents from the applicant;
  - (b) Provide the sealed DNA kit to the lab technician or panel physician;
  - (c) Witness the collection of the buccal swab from the donor/applicant;
  - (d) Legibly record required information on chain-of-custody documents (this function may not be performed by LES or an outside party);

NOTE: Minimal chain of custody requirements include, but are not limited to:

Date and time of the sample collection;

Name and signature of lab technician conducting the swabs. Name is verified with the technician's ID badge or card;

Name and signature of the cleared American witness; and

Other specific information required by the AABB laboratory as indicated in the kit instructions.

- (e) Witness the lab technician placing the completed DNA sample into the protective sleeve or pouch provided by the lab, accept the specimen from the lab technician or panel physician, and personally seal and sign the sample in accordance with the kit instructions;
- (f) Seal the specimen in the pre-paid shipping envelope provided by the lab. The sample must be in the direct possession of the same cleared U.S. citizen employee who witnessed the sample collection until the return mailing envelope is sealed in accordance with the instructions from the lab or shipping company;
- (g) Record in the applicant's case notes:
  - (i) His or her name as witness to the collection;
  - (ii) Date and time of sample collection;
  - (iii) The name of the lab technician (from ID badge or card);
  - (iv) The name of the lab or panel physician where the technician is employed; and
  - (v) A clear description of the relationship(s) being tested (e.g.,

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probability that the tested mother or father is the mother/father of the child tested);

- (h) Scan all chain-of-custody documents into the American Citizen Services (ACS) or Passport Lookout Tracking System (PLOTS) systems and associate them with the applicant's case. Be sure that the information provided to the AABB lab clearly defines the relationship(s) to be tested. The request should be specific, not "are the parties related?", but rather "is the individual the mother/father of the tested applicant?"; and
  - (i) The passport application (or Report of Birth Application) scanned into the Passport Issuance Electronic Record System (PIERS) must include the DNA test results and all associated documents; and
- (11) For reporting purposes, DNA cases must be annotated in the text/comments fields as referrals to the Fraud Prevention Unit (FPU) in both the ACS and TDIS systems. The case must indicate that the reason for the referral is that the case is pending DNA testing.

## **7 FAM 1170 APPENDIX A STORING AND SHIPPING OF DNA SAMPLES**

*(CT:CON-335; 06-22-2010)*

- a. Once the test is completed, the DNA samples must be placed into the pre-paid shipping envelope, sealed, and shipped as soon as possible—preferably the same day. The shipping envelope may not be shipped through the local mail services and must be shipped by a company similar to FedEx or DHL. The cleared U.S. citizen employee must ensure that all documentation, including supporting forms, photos of the donors, chain-of-custody documents, etc., requested in the test kit, accompany the specimen. Once the kit is sealed, the cleared U.S. citizen employee is responsible for delivering or ensuring pick-up of the test kit(s) by the mail service. He or she is responsible for the kits until they are turned over for shipment.
- b. All DNA samples must be shipped within 24-48 hours after collection is complete. If kits cannot be shipped on the same day the sample is collected, then the sample must be returned to the accountable consular officer (ACO) for storage until it is released for shipment. The DNA sample kit and all chain-of-custody materials are controlled items and must be stored securely, at minimum in a bar-lock safe, until the kit is shipped back to the U.S.-based lab.
- c. When the test kit is shipped, a receipt for all kits must be collected from the shipper, the shipment date and tracking number must be entered into the case notes, and the air bill must be scanned into the appropriate case records.
- d. Under no circumstances may posts use the diplomatic pouch or local mail

services to return samples to the testing laboratory.

## **7 FAM 1180 APPENDIX A COMMUNICATING THE TEST RESULTS**

*(CT:CON-335; 06-22-2010)*

- a. In all phases of testing, communication of the results of the test must be directly between the laboratory and the consular officer and/or U.S. citizen State Department employee designated by the Assistant Secretary for Consular Affairs, including professional adjudication specialists at posts abroad or the senior passport specialist at a domestic passport agency/center and the laboratory.
- b. AABF laboratories will send all test results directly to consular sections or passport agencies/centers in envelopes sealed with the same type of security tape used when the samples are taken. Only a consular officer or U.S. citizen State Department employee designated by the Assistant Secretary for Consular Affairs, including professional adjudication specialists at posts abroad or the senior passport specialist at a domestic passport agency/center may open the sealed envelopes and perform step (1) below:
  - (1) A cleared U.S. citizen receives and opens the sealed DNA results letter, and enters the results of the test into the case notes annotated on the application and citizenship worksheet, taking care to record the probability of relationship determined by the testing;
  - (2) After the results are entered into the case notes by a cleared American, the results must be scanned into the case record. For posts abroad, an LES may do the scanning provided that the results have already been entered into the case notes; and
  - (3) Since the applicant bears full financial responsibility for testing, we have no objection to that person also receiving a copy of the results directly from the laboratory or panel physician. Post should not give copies of DNA test results directly to applicant or other parties without express consent from the Department.

## **7 FAM 1190 APPENDIX A REPORTING POSSIBLE COMPROMISE OF DNA SAMPLE OR RESULTS**

*(CT:CON-449; 03-25-2013)*

- a. Under no circumstances can any other party, including those being tested, be permitted to carry or transport biological samples or test results.
- b. If the cleared U.S. citizen employee witness or any other member of the

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consular team observes or has any reason to suspect that the test specimen or results have been tampered with, or may have even momentarily or inadvertently been subject to a compromised chain of custody, immediately notify post management, CA/OCS/L and CA/FPP. In the case of an actual or suspected breach of custody, post must suspend processing of the citizenship case until it has consulted with, and obtained clearance from, CA/OCS/L and CA/FPP.

- c. For domestic applications, passport specialists must immediately advise the agency/center fraud prevention manager (FPM). In the case of an actual or suspected breach of custody, the agency or center must suspend processing of the citizenship case until it has consulted with, and obtained clearance from the fraud prevention manager and CA/PPT/L.
- d. Any procedural questions about this policy guidance should be directed to CA/OCS/L ([Ask-OCS-L@state.gov](mailto:Ask-OCS-L@state.gov)) and CA/FPP for posts abroad; and to CA/PPT/L (CA-PPT-AdjQ) for domestic passport agencies and centers.